

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

In the Matter of the Search of
the patient records located, Case No. 2:10-mj-00037
on March 2, 2010, in a safe at
35 West Third Avenue,
Williamson, West Virginia

O R D E R

Dr. Katherine A. Hoover has filed a Motion to Vacate Search and Seizure Warrant of March 1, 2010 and for Remedial Action, using the case number 2:10-mj-00037. The warrant at issue authorized federal agents to seize eight patient files from a safe. It is hereby **ORDERED** that the Clerk file Dr. Hoover's Motion in this case file as set forth below.

Dr. Hoover's Motion alleges that certain affidavits contained false information, that this Court lacks subject matter jurisdiction to issue a search warrant of a doctor, that various other warrants were issued in violation of law, that certain funds were illegally seized, and other matters. Dr. Hoover has attached to her Motion a portion of an autopsy report and seven autopsy photographs, which appear to be irrelevant to this matter, and should not be on the public record.

The Court will consider Dr. Hoover's Motion as a motion to return property filed pursuant to Rule 41(g), Federal Rules of Criminal Procedure. That Rule provides as follows:

(g) Motion to Return Property. A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings.

The only property which is the subject of Dr. Hoover's Motion is the eight patient files seized from the safe. If Dr. Hoover wishes to challenge the seizure by federal agents of any other property, she must file an appropriate motion as to each warrant in the appropriate District.

Accordingly, it is hereby **ORDERED** as follows:

1. The portion of the autopsy report and the seven photographs attached to the Motion shall be filed under seal pending further order of the Court.
2. The United States Attorney's Office shall file a response to the Motion by **June 28, 2010**; Dr. Hoover shall file a reply to the government's response by **July 12, 2010**.

The Clerk is directed to provide copies of this Order to Dr. Hoover and AUSA Monica Schwartz.

ENTER: June 14, 2010


Mary E. Stanley
United States Magistrate Judge